

11 July 2023

Alexander Galea
Manager, Eastern and South Districts
NSW Department of Planning and Environment
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Dear Mr Galea,

Rezoning Review request RR-2023-12/PP-2022-4295 – Planning Proposal for 407-511 King Georges Road, Beverly Hills

I refer to your letter dated 22 June 2023, notifying Council of a request for a Rezoning Review in relation to the Planning Proposal for 407-511 King Georges Road, Beverly Hills.

The Department has requested Council to provide the following information:

- Any comments, correspondences, or additional information on the planning proposal;
- Confirmation that the proposal is consistent with what was submitted as the accepted proposal by Council; and
- Confirmation whether Council wishes to nominate itself as the Planning Proposal Authority (PPA).

The requested information is now provided below:

Any comments, correspondences, or additional information on the planning proposal

On 16 January 2023, Council received a Planning Proposal seeking to amend the Georges River Local Environmental Plan 2021 (GLEP 2021) as it relates to land at 407-511 King Georges Road, Beverly Hills (the "Site"). The Site is located within the area covered by the Beverly Hills Local Centre Master Plan. The Planning Proposal was lodged by Mecone Pty Ltd on behalf of Beverly Hills – Land Owners Association (the proponent).

The Planning Proposal seeks to amend the Georges River LEP 2021 as follows:

- Increase the maximum building height control for the Site from 15m to part 44m and part 50m.
- Increase the floor space ratio control for the Site from 1.5:1 and 2:1 to part 4:1 and 5.5:1

On 2 March 2023, Council notified the proponent of its initial assessment and concerns with the Planning Proposal. Council advised the proponent that based on the information lodged to date it cannot support the Planning Proposal as it does not meet strategic and site specific merit tests as outlined in the Department's *Local Environmental Plan Making Guideline*.

The main concerns are around the bulk and scale, traffic, flooding, lack of provision of public open space to cater for the additional resident and worker population, complete disregard for the exhibited draft Beverly Hills Master Plan, as well as the inadequacy of the submitted urban design, gas pipeline, flooding and traffic reports.

A summary of Council's comments on and assessment of the Planning Proposal is provided below and further expanded upon in **Attachment 1 – Rezoning Review Assessment**. Detailed comments have been provided by Council's technical staff including urban design, traffic, stormwater and infrastructure provision.

Council has also received comments from TfNSW (refer to **Attachment 2**) and from consultants - Gyde - who prepared the exhibited draft Beverly Hills Master Plan on behalf of Council. Gyde's comments have been incorporated by Council into the overview below and in **Attachment 1**. As the Site is located within the Notification Zone of the Moomba to Sydney Ethane (MSE) Pipeline Council appointed Arriscar to undertake a review of the proponents risk. Arriscar has provided feedback which is in **Attachment 3**.

A summary of the issues are:

Strategic Merit

The Planning Proposal does not demonstrate strategic merit as it is inconsistent with the Greater Sydney Region Plan, South District Plan, Council's Local Strategic Planning Statement (LSPS), Council's Commercial Centres Strategy Stage 1, and Council's draft Beverly Hills Master Plan (exhibited form and 24 April 2023 Council resolution) as summarised below. The Planning Proposal:

- Will result in a significant increase in the local population and demand for local



infrastructure and community facilities which the Planning Proposal has not addressed. The Planning Proposal is premature and should await the outcome of the master planning process currently underway by Council.

- Is not accompanied by an ADG compliant scheme addressing the requirements of the ADG and SEPP 65.
- Has not addressed the provision of additional employment opportunities. Council requires a non-residential FSR of 0.75:1 which would stem the loss of non-residential floorspace as sites are redeveloped under the Master Plan and ensure Beverly Hills has capacity to meet the 2036 projections for employment floorspace demand in the Commercial Centres Strategy. It is not clear from the Planning Proposal whether an increase in the non-residential FSR from 0.5:1 to 0.75:1 is proposed.
- Acknowledges the need for open space in the Beverly Hills Town Centre; and cites the need for open space through various regional, district and Council strategies, however, only relies on the conversion of the existing stormwater culvert on the site into open space, which is unacceptable. This site (Nos.443-445 King Georges Road - including the stormwater culvert) has an active consent until 20 May 2026 (DA2019/0114) for a tourist and visitor accommodation development comprising of 61 hotel rooms with a ground floor café. It is likely that the approved development will be constructed before any future planning proposal for the area is finalised, thereby eliminating the only potential public open space proposed by the concept scheme.
- Has not addressed Council's Open Space, Recreation and Community Facilities Strategy 2019-2036 which highlights the lack of open space in and around the Beverly Hills Local Centre. Specifically, the subject site does not have access to public open space within 200m (a benchmark set out by the South District Plan). The proposal to introduce an additional 726-777 dwellings will further exacerbate the pressure on existing open space and the provision of additional open space to meet the demands of high density living.
- Does not demonstrate consistency with the built form and density outcomes envisaged by the draft exhibited Master Plan for the western side of the Beverly Hills Local Centre. In this respect Council at its meeting held 24 April 2023 reaffirmed its support for the exhibited Master Plan heights and FSRs for the



western side of King Georges Road – which incorporates the Site. **Attachment 4** contains the resolution of Council of 24 April 2023 and **Attachment 5** contains the report by officers. Council has now reappointed Gyde to prepare an amended Master Plan based on the principles in the 24 April 2023 Council resolution. The Master Plan will be supported by a strong evidence-base established through a suite of detailed studies currently underway and will be exhibited in early 2024.

- Seeks an excessive increase in building height and FSR which if supported will adversely change the character of the centre and undermine the future vision of the local centre.
- Does not provide adequate justification for exceeding the development standards proposed by the draft Beverly Hills Master Plan.
- Would set an undesirable precedent, lead to ad-hoc planning and undermine any future vision of this local centre and the current master planning process underway.

Site Specific Merit

The Planning Proposal does not demonstrate site specific merit as:

- The proposed scheme accompanying the Planning Proposal *does not demonstrate a firm commitment to a good design outcome* as:
 - It creates an unrealistic vision of King Georges Road as an ‘urban boulevard’: King Georges Road is a busy State/arterial road with heavy volumes of traffic, including freight vehicles. TfNSW has not indicated any plans to alter the vehicle-focused nature of King Georges Road, which means the vision of embellishing King Georges Road as a pedestrian focused ‘urban boulevard’ is unrealistic and should be reconsidered in any future concept schemes.
 - Does not address the required lane widening at Dumbleton Lane: The draft Beverly Hills Master Plan identifies the need for Dumbleton Lane to be widened by 3m to enable the conversion of the existing lane into a 9m wide shared zone. The Scheme only proposes a lane widening of 2m at the rear of the subject site.
 - Does not address the deficiency in public open space: Significant concerns are raised regarding the deficiency in public open space with the proposed addition of 726-777 dwellings exacerbating the pressure



on providing additional open space to meet the demands of high density living. The proposed use of No.443-445 King Georges Road for open space is considered inappropriate and alternative locations must be identified to address the deficiency in public open space.

- The proposed scheme is not ADG-compliant: The proposed scheme will result in a non-compliance with the ADG and existing LEP clauses at the DA stage.
- Massing Strategy and Urban Profile: The Planning Proposal relies on an increased development scale, which is distributed more evenly along the western main street edge, increasing the proposed maximum heights from approximately 6 storeys to 12 storeys. The outcome is a visually dominant height spine fronting the western side of King Georges Road, detracting from the balanced streetscape scale (eastern vs western side), and eroding the 'bell curve' skyline profile sought by the exhibited Master Plan framework.
- Built form transition: The Planning Proposal package does not include analysis demonstrating how the continuous perimeter forms along the eastern laneway edge will impact on the spatial character and amenity of the laneway - noting the length of the continuous built form edge proposed. Concerns are raised that the response is too 'urban' in character and out of scale for a non-strategic centre, which is more pronounced given the desire to retain and respect the character of neighbouring R4 residential areas to the west, which are unlikely to change in scale and character in the short to mid-term.
- Character responses: The increased streetwall scale and grain responses provided to the western interfaces fails to respond sympathetically to the surrounding existing development pattern and grain. The alternative massing erodes the landscape presence to the laneway which is an important character element in residential neighbourhoods. The visual prominence of the continuous 12-14 storey tower forms would be visually exposed along its western interface, detracting from the residential neighbourhood character to the west of these proposed buildings. The poor outcome is likely to be amplified by the local topography.
- Streetwall proportions and setbacks: The Planning Proposal effectively increases the perceived streetwall scale from 2 to 8 storeys along the western street edge. The arrangement fails to address aims to recognise and enhance the existing character of the local area and



erodes the balanced streetscape proportions sought by the Master Plan vision (eastern/western side of the street).

- Streetwall breaks: The proposal provides several breaks in the secondary streetwall but according to the typical mid-block streetscape elevations, some breaks are only 6m in width. Given the scale of the streetwall, the width of the breaks is considered inadequate to sufficiently mitigate visual prominence to the street.
 - Amenity and amenity impact: Pedestrian precinct amenity will be adversely impacted by the increased streetwall scale and the proximity of tower forms (resulting from insufficient setback above the podium levels). The Planning Proposal fails to demonstrate that reasonable levels of solar access and amenity is preserved to adjoining lots. The overshadowing diagrams supporting the scheme indicate the properties would be largely shaded until 12:00pm, so unless existing units have windows orientated north, they would be impacted by additional overshadowing.
- The proposed scheme does not address the impacts on the *State heritage listed item - 'Beverly Hills Railway Station Group.'* Council's heritage advisor has raised concerns that the anticipated built forms up to a maximum of 14 storeys at the northern end, has the high potential to visually dominate the backdrop and setting to the Beverly Hills Railway Station group, significantly diminishing the existing 'open sky' outlook from the railway station.
 - The Heritage Impact Statement (HIS) has not considered the *potential significance of 'Hepburn Court'* at No. 423 King Georges Road which retains strong characteristics attributed to the architectural style and period and has potential heritage significance.
 - The proponent's *traffic impact assessment is inadequate.* Council's Traffic Engineer has reviewed the proposal and disputed the conclusion of the proponent's traffic impact assessment. Further traffic modelling is required to determine the impact on surrounding local and State roads at the worst case scenario. A detailed traffic and parking analysis of the proposal will need to be carried out to determine the impact the proposal has at full development on nearby roads, intersections and on street parking availability. The study will need to include the redevelopment of the Edgbaston Road car park by TfNSW as a commuter carpark.



- TfNSW has raised a number of key issues which have not been addressed:
 - Concerns with the strategic merit of the proposal as the Beverly Hills Master Plan is still in draft form and has yet to be endorsed by Council.
 - The proponent is determining the feasibility of planning control changes and urban design outcomes in isolation of the other development sites in the town centre.
 - The cumulative traffic and transport impacts of future development uplift on the western side of the town centre arising from an increase in height and FSR controls has not been assessed with potential development on the eastern side.
 - Increasing FSR and building heights on one side of King Georges Road is not ideal. An integrated approach to amending the planning controls in the town centre is warranted and would enable improved place outcomes.
 - Proposed increases to the FSR (4:1 – 5.5:1) and building heights (44-50 metres) is not in keeping with the site's location, particularly given the width of the site. Furthermore, Beverly Hills is designated a local centre rather than a strategic centre in the South District Plan.
 - Further details relating to through site links, pedestrian access and amenity, access to Beverly Hills station, and network and safety are provided in TfNSW's submission.

- As the *environmental constraints* that affect the Site have not been addressed as follows:
 - The proponent's preliminary flood study report prepared by Robert Bird Group (RBG) is inadequate and the computed flood levels are unacceptable for this site.
 - The entirety of the subject site is located within the Notification Zone of the Moomba to Sydney Ethane (MSE) Pipeline that runs through the northern portion of the Georges River Local Government Area. The proponent's risk report prepared by Northrop is insufficient to determine whether the increased risk of locating more people in the area is acceptable.

- As there is *inadequate open space provision* within the locality. The Social and Community Assessment Report states the need for appropriate access to green, open space in the study area and immediate vicinity, noting that both

passive and active recreational space is underdeveloped for that area - one of the worst shortfall areas of the LGA.

The report notes that passive recreation and active recreation space is not close (250m and 700m respectively), particularly for the increasing older demographic that will move into the area. However, no suggestion has been made for any appropriate area within or in the vicinity of the site; other than converting the stormwater channel near the cinema which is not supported by Council as the site contains two stormwater drains that merge into a stormwater culvert and has an active development consent for a tourist and visitor accommodation until May 2026.

- Has not addressed *Council's Planning Agreements Policy 2016* ('Policy') dated 10 August 2016. The Planning Proposal triggers the application of the Policy. However, no proposal or letter of offer to enter into a voluntary planning agreement (VPA) to provide public benefits has been provided in conjunction with the Planning Proposal.

The Planning Proposal will result in a significant increase in the local population and demand for local infrastructure and community facilities. The Planning Proposal seeks to increase the FSR and building heights for the subject land and states it will facilitate development for approximately 726-777 new dwellings and 14,015m² of retail/dining/evening entertainment floor space.

Council's GRC Local Infrastructure Contributions Plan (2021) did not account for the proposed development and associated increase in population. As such, the Contributions Plan does not include all of the facilities and services that would be required to address and support the proposed development.

Due to the scale of development proposed, a VPA provides the only funding mechanism for Council to address the demands for local infrastructure and facilities arising from the Planning Proposal.

The VPA forms part of the strategic planning process and addresses the site-specific demands of the proposal.



Confirmation that the proposal is consistent with what was submitted as the accepted proposal by Council

The Planning Proposal lodged for the subject Rezoning Review is consistent with the Planning Proposal submitted and assessed by Council.

Confirmation whether Council wishes to nominate itself as the Planning Proposal Authority (PPA)

Given Council does not support the progression of the Planning Proposal, Council does not nominate itself to be the Planning Proposal Authority (PPA). In accordance with the DPE's LEP Making Guideline' (September 2022), it is understood that should the Planning Proposal proceed to a Gateway Determination then the relevant Regional Planning Panel will act as the PPA in this matter.

Conclusion

The Planning Proposal cannot be supported in its current form as it lacks strategic and site-specific merit.

The proposal is not underpinned by a comprehensive strategic planning study for the locality and if implemented, will undermine the ability to achieve the objectives and actions of high level strategic planning policies relating to the site, including the:

- Greater Sydney Region Plan – A Metropolis of Three Cities
- South District Plan
- Community Strategic Plan 2022-2032
- Commercial Centres Strategy – Part 1
- Georges River Local Strategic Planning Statement
- Draft Beverly Hills Master Plan

The Planning Proposal does not provide adequate justification for exceeding the development standards proposed in the draft Beverly Hills Master Plan, in both the exhibited version and principles in the 24 April 2023 Council resolution to guide a new Master Plan.

The Planning Proposal does not reflect the urban design outcomes of the draft exhibited Beverly Hills Local Centre Master Plan and will ultimately result in an excessively bulky and visually dominant built form with significant impacts to the public and private domain.

The proposal will set an unacceptable precedent prior to the establishment of a finalised policy position for future development in the locality and undermine the future strategic planning work for the Beverly Hills Local Centre.

The Planning Proposal is not considered to have strategic and site-specific merit and should not proceed to a Gateway Determination.



Should you have any queries, please direct them to Lisa Ho, Senior Strategic Planner, on 9330 9425.

Yours sincerely



Catherine McMahon
Manager Strategic Planning

Attachments

1. Rezoning Review Assessment by Council
2. TfNSW's submission dated 7 March 2023
3. Arriscar's Assessment dated 16 February 2023
4. Council resolution of 24 April 2023
5. Council Officer report of 11 April 2023

